A.F.R.

(81)

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, C.J.

WRIT PETITION NO.3586 OF 2006

O R D E R

Post this writ petition for pronouncement of the order on **28th July, 2006**

Sd/-
Chief Justice

A.F.R.

(82)

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, C.J.

WRIT PETITION NO.3586 OF 2006

PETITIONER Sudhakar Hatwar, S/o. Shri Ganpat Rao, Aged about 59 years, Occupation – Service, presently posted as Executive Engineer, Public Works Department, Khairagarh, Distt. Rajnandgaon (Chhattisgarh)

Vs.

RESPONDENTS

1. State of Chhattisgarh, Trhough: Secretary, Department of Law Legislative Affairs, Mantralaya, Dau Kalyan Singh Bhawan, Raipur, (Chhattisgarh)
2. Superintendent of Police, Anti Corruption Bureau, Raipur (Chhattisgarh)
3. Inspector, Anti Corruption Bureau, Bastar (Jagdalpur) Distt. Baster (Chhattisgarh)

Present : Shri Manindra Shrivastava, learned Sr. Advocate with Shri Amrito Das, learned counsel for the petitioner.
Shri Utkarsh Verma, learned Dy. G.A. for the State of C.G. and its Authorities.

ORDER

(Passed on 28th of July, 2006)

The petitioner is presently serving as Executive Engineer in the Public Works Department of the State of Chhattisgarh. In this writ petition, he has assailed the validity of the order of the Government of Chhattisgarh State dated 05.04.2006 passed in exercise of the power conferred under Section 19(1) of the Prevention of Corruption Act, 1988 (for short 'the PoC Act') and Section 197 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') according sanction for prosecution of the petitioner. The petitioner has also sought for quashing of the charge sheet dated 15.06.2006 filed by the Inspector, Anti Corruption Bureau, Bastar Region, Jagdalpur in the Court of Special Judge (Prevention of Corruption Act),

Dantewara, (Chhattisgarh) against the petitioner alleging commission of offence under Sections 13(1) (d) and 13·(2) of the PoC Act read with Section 120-B of the Indian Penal Code in Crime No.24/99. The petitioner has only produced the sanction order dated 05.04.2006 and he has not produced the charge sheet dated 15.06.2006.

(2) The material part of the sanction order dated 05.04.2006 reads as follows:

"पेश दस्तावेजों एवं गवाहों के कथनों के अनुसार अभियोजन कहानी संक्षेप में यह है कि जून 1996 के पूर्व से आरोपी श्री सुधाकर हटवार लोक निर्माण विभाग पश्चिम बस्तर बीजापुर में कार्यपालन यंत्री के पद पर कार्यरत थे। वे इस पद पर दिनांक 04.06.06 तक कार्यरत रहे। उनके पास इस दौरान लोक निर्माण विभाग पश्चिम बस्तर का अतिरिक्त प्रभार था। इस दौरान आरोपी श्री एस0आर0राय चौधरी जो कि अब सेवा निवृत्त हो चुके है, लोक निर्माण विभाग बीजापुर में संभागीय लेखाधिकारी के पद पर कार्यरत थे। इसी दौरान श्री आर0डी0 अहिरवाल लोक निर्माण विभाग, दक्षिण बस्तर संभाग दंतेवाड़ा में कार्यपालन यंत्री के पद पर कार्यरत थे। इसी दौरान आरोपी श्री गोपाल कृष्ण अग्रवाल मेसर्स ए0एस0 इंटरप्राईजेस रायपुर के प्रोपराईटर थे। इन सभी लोगों ने मिलकर शासकीय राशि का दुर्विनियोग करने हेतु आपराधिक षड़यंत्र किये। इन लोगों ने आपराधिक षड़यंत्र कर गलत सामानों की कय दिखाकर शासन को 3,37,155/–रूपये की आर्थिक क्षति पहुंचाये। इतनी ही राशि का इन लोगों ने फायदा प्राप्त किये । इस मामले में सिर्फ आरोपी श्री सुधाकर हटवार की अभियोजन की स्वीकृति चाही जा रही है। अतः इसी संबंध में यह आदेश पारित किया जा रहा है।

उपरोक्त सभी आरोपियों ने मिलकर आपराधिक षड़यंत्र किये। इस षड़यंत्र के अनुसरण में आसेपी श्री सुधाकर हटवार ने आवश्यकता न होने पर लोक निर्माण विभाग के अनुविभागीय अधिकारी उप संभाग मद्देड़ से कोई मांग किये बिना उप संभाग मद्देड़ के लिए 20 नग पोर्टेबल टॉर मिक्सिंग हैड ड्रायवन कन्टेनर, 3 नग माइल्ड स्टील हट, 18 नग टू व्हीलर साइड कैरियर, 40 नग ट्रसटेक एवं 18 नग टू व्हीलर वाटर टैंकर खरीदने की योजना बनाई। इस हेतु उसने कय समिति की बैठक बुलाई। इस कय समिति का अध्यक्ष स्वयं श्री सुधाकर हटवार थे। सदस्य श्री एस0आर0 राय चौधरी और सदस्य श्री आर0डी0 अहिरवाल थे। इन वस्तुओं को खरीदने के लिए नियमानुसार लघु उद्योग निगम भोपाल से अनुपलब्धता प्रमाण पत्र नही लिया गया। इन लोगों की कय समिति की बैठक में इन लोगों ने यह तय किये कि उपरोक्त वस्तुएं मद्देड़ उप संभाग के लिए खरीदी जावे। इस समिति की जो बैठक हुई और जो प्रस्ताव पंजी में पारित की गई उसमें आरोपी श्री राय चौधरी ने यह टीप लिखी कि लघु उद्योग निगम भोपाल से अनुपलब्धता प्रमाण पत्र प्राप्त किया गया है। जबकि इस प्रकार का कोई अनुपलब्धता प्रमाण पत्र नही प्राप्त किया गया था। इसके अलावा इन लोगों ने उपरोक्त वस्तुओं के नामों में मामूली फेर बदल किये, जिससे कि लघु उद्योग निगम भोपाल से अनुपलब्धता प्रमाण पत्र प्राप्त किया जा सके।

माईल्ड स्टील हट का वास्तविक नाम जीप्सी हट है, ट्रसटेक का वास्तविक नाम स्टील बेस फ्रेम है, टू व्हीलर साईड कैरियर का वास्तविक नाम सिंगल/डबल व्हील बेरो है, पोर्टेबल हैड ड्राइवन टॉर मिक्सिंग कंटेनर का वास्तविक नाम असफॉल्ट मिक्सिंग ट्रे है। इन लोगों ने वास्तविक नाम से हटकर उपरोक्त वस्तुओं का नाम इसलिए लिखे, जिससे कि लघु उद्योग निगम भोपाल से अनुपलब्धता प्रमाण पत्र प्राप्त किया जा

सके। इसके बाद भी लघु उद्योग निगम भोपाल से कोई अनुपलब्धता प्रमाण पत्र नही प्राप्त किया गया है, और कय समिति की पंजी में फर्जी टीप लिखी गयी कि लघु उद्योग निगम से अनुपलब्धता प्रमाण पत्र प्राप्त किया गया है। इन लोगों ने ऐसा इसलिए किये जिससे कि आरोपी श्री गोपाल कृष्ण अग्रवाल के फर्म से उपरोक्त वस्तुओं का कय किया जा सके।

उपरोक्त वस्तुओं के कय करने हेतु आरोपी श्री सुधाकर हटवार ने तथाकथित निविदा आमंत्रित की, परंतु निविदा के संबंध में नियमानुसार विज्ञापन जारी नही किया गया। नियमानुसार 15000/--रूपये से अधिक की वस्तुएं खरीदने के लिए समाचार पत्रों में निविदा का प्रकाशन होना अनिवार्य है।

श्री सुधाकर हटवार के तथाकथित निविदा जारी करने के तारतम्य में 3 फर्मों की निविदाएं दिनांक 15.05.96 को श्री सुधाकर हटवार को प्राप्त हुई। जिनमें एक कंपनी मेसर्स महालक्ष्मी इण्डस्ट्रीज रायपुर के नाम की थी, दूसरी मेसर्स शर्मा इण्डस्ट्रीज के नाम की थी, तीसरी मेसर्स ए0एस0 इण्टरप्राइजेस के नाम की थी। इन तीनों फर्मों के द्वारा भरी गई निविदाओं में सबसे कम दर मेसर्स ए0एस0 इण्टरप्राइजेस, रायपुर की थी। उस दिनांक तक 2 फर्में मेसर्स महालक्ष्मी इण्डस्ट्रीज रायपुर एवं शर्मा इण्डस्ट्रीज रायपुर का कोई अस्तित्व ही नही था। इससे यह दर्शित होता है कि इन दोनों के तरफ से आरोपियों ने कहीं से फर्जी निविदायें भरवाये, जिससे कि मेसर्स ए0एस0 इन्टरप्राईजेस रायपुर की निविदा को कम दर का बताते हुए इसकी निविदा स्वीकार की जा सके। इसी तारतम्य में दिनांक 29.05.96 को सभी निविदाएं खोली गई थी और दिनांक 30.05.96 को मेसर्स ए0एस0 इंटरप्राइजेस रायपुर की निविदा स्वीकार करते हुए उसे उपरोक्त वस्तुएं सप्लाई करने का आदेश दिया गया। जिसके तारतम्य में आरोपी श्री गोपाल कृष्ण अग्रवाल के

उस फर्म ने दिनांक 30.05.96 को ही उपरोक्त वस्तुत मद्देड़ में प्रदान की। जबकि रायपुर से मद्देड़ की दूरी करीबन 500 किलोमीटर है। एक ही दिन में इन वस्तुओं का किसी भी हालत में रायपुर से मद्देड़ नही पहुंचाया जा सकता है। इससे स्पष्ट रूप से आरोपियों का आपराधिक षड़यंत्र दर्शित होता है। मेसर्स ए0एस0 इंटरप्राइजेस रायपुर ने जो उपरोक्त वस्तुएं सप्लाई की थी, उसकी कीमत 499385 रूपये का भुगतान श्री सुधाकर हटवार ने आरोपी श्री गोपाल कृष्ण अग्रवाल प्रोपराईटर मेसर्स ए0एस0 इंटरप्राइजेस, रायपुर को की हे। आरोपी गोपाल कृष्ण अग्रवाल द्वारा प्रदान की गइ इन वस्तुओं का मूल्यांकन तकनीकी परीक्षक से कराया गया तब यह पाया गया है कि श्री गोपाल कृष्ण अग्रवाल को इन वस्तुओं के लिए 3,37,155/–रूपये का अधिक भुगतान किया गया है। इस प्रकार से उपरोक्त सभी आरोपियों ने शासन को 3,37,155/–रूपये की आर्थिक क्षति पहुंचाये है और इतनी ही राशि का लाभ आरोपियों ने प्राप्त किये है। इन सब में श्री सुधाकर हटवार का हाथ रहा है, चूंकि वही उस समय कय समिति के अध्यक्ष थे।

उपरोक्त से यह स्पष्ट होता है कि आरोपी श्री सुधाकर हटवार एवं श्री एस0आर0 राय चौधरी, श्री आर0डी0 अहिरवाल, लोक यंत्री एवं आरोपी श्री गोपाल कृष्ण अग्रवाल ने मिलकर आपराधिक षड़यंत्र किये और इसके अनुसरण में नियम विरूद्ध कार्य करते हुए और कय समिति की पंजी में फर्जी टीप अंकित करते हुए लघु उद्योग निगम से अनुपलब्धता प्रमाण पत्र प्राप्त किये बिना आरोपी श्री गोपाल कृष्ण अग्रवाल के मेसर्स ए0एस0 इंटरप्राइजेस से उपरोक्त सामग्रियों का कय किये और शासन को 3,37,155/–रूपये का क्षति पहुंचाये है और इतनी राशि गलत तरीके से प्राप्त किये है। आरोपी श्री सुधाकर हटवार का यह कृत्य भ्रष्टाचार निवारण अधिनियम 1988 की धारा 13

(1) डी सह पठित धारा 13(2) एवं भारतीय दंड संहिता की धारा 120 बी के तहत दण्डनीय है। ऐसे आरोपों के लिए आरोपी श्री सुधाकर हटवार का अभियोजन आवश्यक है। इस हेतु श्री सुधाकर हटवार के प्रशासकीय विभाग अर्थात लोक निर्माण विभाग, मंत्रालय, दाऊ कल्याण सिंह भवन, रायपुर ने अपने पत्र कमांक 1530/एफ 8–8/04/19/स्थापना–1 रायपुर दिनांक 27.02.06 के द्वारा सहमति दी है।"

(3) The Sanctioning Authority, i.e., the Government of Chhattisgarh State having referred to the materials placed before it has recorded a finding to its satisfaction that the complained act on the part of the petitioner tantamounts to criminal misconduct within the meaning of Section 13(1) (d) of the PoC Act which is punishable under sub-Section (2) of Section 13 of the PoC Act. On the basis of the above satisfaction, the Government of Chhattisgarh State has accorded the sanction under Section 19(1) of the PoC Act and Section 197 of the Cr.P.C.

(4) I heard Shri Manindra Shrivastava, learned senior counsel and Shri Utkarsh Verma, learned Dy. G.A. for the respondents. Shri Manindra Shrivastava contended that the Government has accorded sanction in a mechanical way without application of mind to the facts and circumstances of the case and the relevant materials on record. According to learned senior counsel, the Government has completely overlooked the relevant record which would show that the approvals were obtained from the Purchase Committee. It was contended that the impugned sanction order is based on conjectures and surmises and there is absolutely no incriminating materials against the petitioner. According to senior counsel, at the most, even taking all the allegations on their face

value, it would only tantamount to an irregularity in grant of contract and not a criminal misconduct. Learned senior counsel would conclude that there is absolutely no iota of legal evidence to make out an offence under Section 13(1)(d) of the PoC Act. Shri Manindra Shrivastava would place reliance on the judgment of the Supreme Court in the case of **State of Tamil Nadu Vs. M.M. Rajendran**[1] in support of his submission.

(5) Shri Utkarsh Verma, learned Dy. Govt. Advocate, at the threshold, would contend that the prayer of the petitioner to quash the charge sheet dated 15.06.2006 is liable to be rejected in *limine* , because, though the petitioner has sought for a writ of *certiorari* to quash the charge sheet, he has not produced the charge sheet. While supporting the impugned sanction order dated 15.06.2006, learned Dy. G.A. would contend that whether sanction should be accorded in a particular case or not for prosecution of a public servant is a matter depending upon the subjective satisfaction of the authority concerned and High Court cannot adjudicate upon the propriety or validity of such sanction on the ground that the satisfaction so arrived at was not proper. He would submit that an order of sanction under Section 19(1) of the PoC Act and Section 197 of the Cr.P.C. is basically an administrative order and not a *quasi*-judicial or judicial decision and as such the arguments advanced on behalf of the petitioner are not tenable.

(6) Having heard the learned counsel for the parties, I do not find any ground whatsoever to quash the impugned sanction order. Quashing of the charge sheet dated 15.06.2006 would not arise, if not for

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1. (1998) 9 SCC 268

any other reason, but, for the reason that the same is not produced. Even according to Shri Manindra Shrivastava, learned senior counsel, the impugned charge sheet dated 15.06.2006 is liable to be quashed only if the sanction accorded by the State Government under Section 19(1) of the PoC Act and Section 197 of the Cr.P.C. is quashed. In other words, even according to learned senior counsel, if the impugned sanction order cannot be quashed, the challenge to the charge sheet dated 15.06.2006 should fail.

(7) The materials and evidence to which reference is made in the sanction order themselves, if true, speak loudly about the criminal misconduct alleged to have been committed by the petitioner. The only question to be considered is whether if the allegations and pieces of evidence to which reference is made in the sanction order and charge sheet are taken to be true, it would amount to a criminal misconduct within the meaning of Clause (d) of sub-Section (1) of Section 13 of the PoC Act and whether it is punishable under sub-Section (2) of Section 13 of the PoC Act. The relevant provisions of sub-Sections (1) and (2) of Section 13 of the PoC Act read as follows:

> "**13. Criminal misconduct by a public servant.**- (1) A public servant is said to commit the offence of criminal misconduct,-
>
> (a) xxx xxx xxx xxx
>
> (b) xxx xxx xxx xxx
>
> (c) xxx xxx xxx xxx
>
> (d) if he, -
>
> (i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(ii) by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest; or

(e) if he or any person on his behalf, is in possession or has, at any time during the period of his office, been in possession for which the public servant cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income.

Explanation. _ For the purposes of this section, "known sources of income" means income received from any lawful source and such receipt has been intimated in accordance with the provisions of any law, rules or orders for the time being applicable to a public servant.

(2) Any public servant who commits criminal misconduct shall be punishable with imprisonment for a term which shall be not less than one year but which may extend to seven years and shall also be liable to fine."

(8) If the allegations to which reference is made by the State Government in the impugned sanction order are taken to be true, it trite, it would amount to criminal misconduct within the meaning of Section 13 (1) (d) of the PoC Act. But, it is the contention of Shri Manindra Shrivastava, that the allegations are baseless and absolutely no materials or evidence on record to show that the petitioner is guilty of criminal misconduct within the meaning of Section 13 (1) (d) of the PoC Act, and that such a conclusion was recorded by the State Government without application of mind to the materials placed before it. The submission of the learned senior counsel is not acceptable to the Court. As could be seen from the impugned sanction order, the Government has applied its mind to certified copies of the relevant documents enlisted in Appendix A as presented in

Crime No.24/99 of Special Police Establishment Lokayukta Office, Madhya Pradesh, Bhopal and also certified copies of the depositions of the witnesses as noted in Appendix B thereof. The Government has also in great elaboration referred to the material facts and has concluded that the petitioner had hatched a criminal conspiracy to defraud the Government and in that direction proposed purchase of 20 portable tar mixing hand driven containers, 3 mild steel huts, 18 two-wheeler side carrier and 18 two-wheeler water tankers etc. without any requisition by the Sub Divisional Officer, P.W.D. Sub Division Maddedh and without any necessity. It is also alleged that tenders were invited without advertisement. It is also alleged that of the three firms who submitted tenders, two firms, namely, M/s. Mahalakshmi Industries, Raipur and M/s. Sharma Industries, Raipur were not in existence. There is no need for me to repeat what is contained in the impugned sanction order, extracted above.

(9) Sub-section (1) of Section 197 of the Cr.P.C. contains a bar that when any person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court, shall take cognizance of such offence except with the pervious sanction of the Central Government or the State Government, as the case may be. Similarly, sub-Section (1) of 19 of the PoC Act also contains similar bar. It reads as follows:

> **"19. Previous sanction necessary for prosecution.** – (1) No court shall take cognizance of an offence punishable under

sections 7,10, 11, 13 and 15 alleged to have been committed by a public servant, except with the pervious sanction, -

(a) in the case of a person who is employed in connection with the affairs of the Union and is not removable from his office save by or with the sanction of the Central Government, of that Government;

(b) in the case of a person who is employed in connection with the affairs of a State and is not removable from his office save by or with the sanction of the State Government, of that Government;

(c) in the case of any other person, of the authority competent to remove him from his office."

(10) The object of the bar contained in Section 19 (1) of the PoC Act and Section 197 of the Cr.P.C. is to protect Judges and other public servants against irresponsible, unjustified, frivolous or vexatious or unnecessary harassment for the acts done in discharge of official duty and to see that no prosecution is started unless there is some foundation for the charge brought. In other words, the object is before an officer is prosecuted the superior authority should screen the allegations with reference to the materials on record and to see whether there is any substance in the allegations made against the officers and is so, whether it is expedient to prosecute the public servant in a Court of law or to deal with him departmentally. If the screening authority like the Central Government or the State Government after the screening is of the opinion that the allegations have absolutely no substance, then, at that level itself the public servant can be protected from the prospective harassment so that the launching of an complaint itself is barred. The object, no-doubt, is quite laudable and it carries with it a social interest to achieve. The appropriate authorities must be satisfied that there is a *prima facie* case

for starting the prosecution and this *prima facie* satisfaction has been imposed as a safeguard before the actual prosecution commences. At the same time, it needs to be noticed that the intention is not to put a wall round public servants, but to enable them to perform their duties fearlessly by protecting them from vexatious, *mala fide* or false prosecutions for act done in the performance of duties. The policy is not to set an official above the common law. If he commits a common offence he has no special privilege. But if one of his official acts is alleged to be an offence, no prosecution will be allowed without sanction for the obvious reason that otherwise official action would be beset by private prosecutions. As held by the Courts, the bar contained in Section 19 (1) of the PoC Act and Section 197 of the Cr.P.C. is mandatory as it is the foundation of the Court jurisdiction and that the special protection so provided should be strictly construed. In that view of the matter, it is true that it is the duty of the appropriate Government to consider all relevant materials and evidence collected in order to decide whether prosecution be sanctioned or forbidden. The appropriate Government must be satisfied that there is a *prima facie* case for starting the prosecution against the public servant concerned before according sanction. Having gone through impugned sanction order and the materials placed before the Court, I am satisfied that the Government of Chhattisgarh State before according permission had duly applied its mind to all the relevant materials and recorded its satisfaction that there is a *prima facie* case against the petitioner. Therefore, the impugned sanction order cannot be condemned as the one made by the Government of Chhattisgarh State without application of mind and without consideration of relevant materials.

(11) For a sanction to be valid, it is true, it must be established that the facts alleged against a public servant, if proved, would amount to an offence with which he is proposed to be charged. It is well settled that in considering the question whether or not sanction for prosecution was required, it is not necessary for the Court to confine itself to the allegations in the complaint. It can also take into account all the materials on the record at the time when the question is raised and falls for consideration. Order of sanction is only an administrative act and not *quasi judicial* one nor a lis is involved. The sanctioning authority has to apply to its mind to the facts and evidence collected by the investigating agency to satisfy itself that it *prima facie* discloses the commission of an offence by the public servant concerned. While doing so, it will not examine the sufficiency and admissibility of the evidence collected by the investigating agency, because, that is the function of the Court. When a public servant is charged with an offence, whether sanction is or is not necessary must be determined with reference to the allegations in the complaint and not the defence that may be put forward. The only thing to be seen by the Court is whether essential facts were present in the mind of the sanctioning authority before it decided to lift the bar to the prosecution. The sanctioning authority is not required to critically examine each piece of evidence collected by the investigating agency, as if it is a Court of law. What is expected of the sanctioning authority is that it will look at the substance of the matter. If the Court is satisfied that all the relevant facts were brought to the notice of the sanctioning authority, the sanctioning authority applied its mind to those facts and it has accorded sanction after due application of mind, it is not the power of the Court to sit in judgment over the judgment of the sanctioning authority as if the Court is an

appellate authority. There is no necessity that the sanctioning authority should refer to each and every document and material information supplied by the investigating agency. The Section under which the alleged offence falls or the name of the offence need not be specified in the sanction. It is enough if the facts constituting the offence are set out with sufficient clarity in the order granting sanction.

(12) In this case, the sanction order contains the facts constituting the offence within the meaning of Section 13 (1) (d) of the PoC Act and the grounds of satisfaction. The validity of sanction has to be proved by evidence. It is only a Court which can lay a presumption on the basis of evidence. Such a presumption does not arise at the stage of granting sanction but only at the stage when the proceedings are launched in Court. Thus, it is quite clear that the scope of judicial review of a sanction order under Article 226 of the Constitution of India is very much limited and circumscribed.

(13) The judgment in the case of **State of T.N. (supra[1])** is, in no way, helpful to the petitioner to support his contention. In that case, the respondent, M.M. Rajendran was a Sub-Inspector of police, Crimes attached to Saidapet Police Station. He was convicted by the learned Sessions Judge, Madras by the order dated 18-12-1992 for the offence under Sections 7 , 13(2) read with Section 13 (1) (d) (i) (ii) of the PoC Act and the consequential sentence passed for such offences. Before the High Court, it was alleged that the said criminal case was not maintainable for not obtaining proper sanction required to be given by appropriate authority for proceeding under the PoC Act. The trial Court, however, proceeded on the footing that proper sanction was accorded by the City

Commissioner of Police, Madras who was the proper authority to grant sanction against the accused. The High Court came to the conclusion that all the relevant materials including the statements recorded by the Investigating Officer had not been placed for consideration by the City Commissioner of Police, Madras, because, only a report of the Vigilance Department was placed before him. When that finding of the High Court was challenged before the Apex Court, the Apex Court opined that even assuming that the Commissioner of Police had considered a detailed report of the Vigilance Department before according sanction, such report cannot be held to be the complete records required to be considered for sanction on application of mind to the relevant materials on record and therefore, the view taken by the High Court that there was no proper sanction in the said case could not be faulted with. I am at a loss to understand how that judgment of the Supreme Court would in any way support the contentions raised by the learned senior counsel appearing for the petitioner in this case. In this case, as already pointed out supra, the sanctioning authority, i.e., the Government of Chhattisgarh State, after due application of mind to all relevant materials, documents and evidence collected by the Investigating Agency and recording its *prima facie* satisfaction, has accorded permission under Section 19 (1) of the PoC Act and Section 197 of the Cr.P.C.

(14) In the result and for the forgoing reasons, I am fully satisfied that the Government of Chhattisgarh State has accorded sanction only after due application of its mind to all relevant facts, materials and documents collected by the Investigating/Prosecuting Agency and it does

not call for interference by this Court. The writ petition is devoid of merit and it is accordingly dismissed, however, with no order as to costs.

Sd/-
Chief Justice

Brajesh